




The following constitutes the order of the Court.  
Signed: June 6, 2019

  
William J. Lafferty, III  
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

In re	)	
	)	Case No. 18-40158
TAOW, LLC,	)	Chapter 7
	)	
	)	
Debtor.	)	Adv. Pro. No. 19-04020
	)	
Paul Mansdorf,	)	
Chapter 7 Trustee	)	
	)	
	)	
Plaintiff,	)	
v.	)	<u>HEARING HELD</u>
	)	Date: May 29, 2019
Rene G. Boisvert; Rene G. Boisvert,	)	Time: 10:30 a.m.
Trustee of the Rene G. Boisvert	)	Courtroom: 220
Revocable Trust Dated August 4,	)	
2004; Rene G. Boisvert as Trustee	)	
of the Greenwood Revocable Living	)	
Trust, U/A dated 6-12-2012; Bindy	)	
LLC, a Wyoming limited liability	)	
company; and 800 Center LLC, a	)	
California limited liability company,	)	
	)	
Defendants.	)	
	)	

**ORDER GRANTING PLAINTIFF'S MOTION FOR PARTIAL SUMMARY  
JUDGMENT**

On May 29, 2019 the Court held a hearing on Plaintiff's *Motion for Partial Summary Judgment* (the "Motion") (doc. 17). For the reasons stated on the record, the Court found that it could grant Debtor's Motion based solely on what seemed to be an uncontested legal assertion

1 by Plaintiff that Defendant Rene G. Boisvert, as responsible individual for Debtor TAOW LLC,  
2 represented throughout the main bankruptcy case of TAOW LLC that the property subject to  
3 Plaintiff's Motion (the "Property") was solely owned by the Debtor via the Debtor's schedules  
4 and other documents signed under penalty of perjury by Defendant Boisvert. The Court found  
5 those judicial admissions to be worthy of estoppel effect and to be the law of the case. The  
6 judicial admissions were not disputed, and on that basis alone it would be appropriate to grant  
7 Plaintiff's Motion.

8 Another ground for partial Summary Judgment presented by Plaintiff's Motion was a  
9 disputed legal issue regarding the effect of two Assessment Parcel Numbers ("APNs") assigned  
10 to a single parcel, and whether each APN could be separately possessed and disposed of like any  
11 other piece of property. The underlying facts regarding the subject property were not in dispute:  
12 that the Property, a residence, straddles the border of the city of Oakland and the City of  
13 Piedmont, and that two APNs are assigned to the property.

14 Plaintiff argued and provided legal authority to support his proposition that an APN's  
15 sole purpose is to permit the efficient assessment and collection of taxes by assessor's offices in  
16 different municipalities, and has nothing to do with ownership or disposition of property per se.  
17 In other words, assigning one parcel for recordation two APNs would not make each APN  
18 separately assignable as its own parcel. *See Cafferkey v. City of San Francisco*, 236 Cal. App. 4<sup>th</sup>  
19 858; 186 Cal. Rptr. 3d 862 (2015).

20 Defendants disputed Plaintiff's proposition on two grounds. First, Defendants asserted  
21 that *Cafferkey* was inapplicable to the facts of this case. Second, Defendants argued that a  
22 forthcoming title report would demonstrate, through a chain of ownership, the validity of the  
23 legal theory that separate APNs assigned to one property could be separately owned by different  
24 persons or entities.

25 The Court found *Cafferkey* to be applicable to this case, and overruled the Defendant's  
26 first argument. During the hearing counsel for Defendants conceded that he had been informed  
27 by a title company that it would not be possible to either produce a document which would either  
28 confirm ownership of one APN number by a party other than the Debtor or verify that such

1 separate ownership would be possible. On that basis Court believed and expressed its belief that  
2 the Defendants were withdrawing any opposition to the legal argument as to whether an APN  
3 would describe property that was itself transferable or separately ownable. The Court therefore  
4 decides that legal issue in favor of plaintiff and would grant summary judgment on that basis.

5 To the extent Defendants argued that in fact one APN associated with the subject  
6 property had been assigned to a person or entity other than the Debtor, that argument is  
7 abrogated by the Court's determination of the legal issue concerning the effect of APNs and any  
8 dispute about alleged ownership of one APN is thereby rendered moot.

9 Accordingly, the Court HEREBY ORDERS THAT:

- 10  
11 1. Defendants' opposition to the Motion is overruled.
- 12 2. Pursuant to Rule 56 of the Federal Rules of Civil Procedure, made applicable in this  
13 Adversary Proceeding by Rule 7056 of the Federal Rules of Bankruptcy Procedure,  
14 Plaintiff's Motion for Partial Summary Judgment is granted as set forth in this Order.
- 15 3. For the reasons stated above and on the record, the Court concludes that there are no genuine  
16 issues of material fact and that the Plaintiff is entitled, as a matter of law, to judgment against  
17 all of the Defendants with regard to the First Claim for Relief set forth in the Complaint –  
18 Quiet Title, with regard to certain real property commonly described as 610 Boulevard Way,  
19 Oakland, California with the following Legal Description:  
20 Lot 4, Block D, Map of Piedmont Knoll, filed October 4, 1907, Map Book 23, Page 36,  
21 Alameda County Records  
22 ("Property").
- 23 4. Pursuant to California Code of Civil Procedure 760.020, *et seq.*, effective January 18, 2018,  
24 (i) the Property is vested in fee simple, in the Plaintiff, solely in his capacity as the Chapter 7  
25 Trustee of the bankruptcy estate of TAOW, LLC, and (ii) record title for the Property shall be  
26 and is vested for all purposes in the "Estate of TAOW, LLC, Paul Mansdorf Trustee, Case  
27 No. 18- 40158" free and clear of any claimed right, title, estate, lien or interest, express or  
28 implied, whatsoever, in the Property, by the Defendants or any of them.

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- 2 5. Upon entry of this Order, Plaintiff's Second Claim for Relief under 11 U.S.C. §363(h) is
- 3 moot and is hereby dismissed.
- 4 6. As to Plaintiff's Third Claim for Relief for an injunction, upon entry of this Order, the
- 5 Court's Preliminary Injunction, Docket 20, entered April 25, 2019, shall be permanent
- 6 injunction. Each of the Defendants are now, and for all time into the future, permanently
- 7 enjoined and restrained from taking any future actions to: (i) claim any legal or equitable right,
- 8 title or interest in the Property adverse to Plaintiff; (ii) cloud Plaintiff's title to or interest in
- 9 the Property; and/or (iii) impair, or hinder the Plaintiff's administration of the Property,
- 10 which may include, but are not limited to, actions affecting title to or possession of the
- 11 Property (*e.g.*, transfers, liens, encumbrances or claims against the Property).
- 12 7. Plaintiff shall lodge a form of judgment in Plaintiff's favor with regard to the First Claim for
- 13 Relief set forth in the Complaint.
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17 **\*END OF ORDER\***

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**Court Service List**

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